

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90

**COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION**

On October 6, 2016, a Public Notice was issued by the Federal Communications Commission (FCC) seeking comment on a petition for a limited waiver filed by the United States Telecom Association (USTelecom) on October 3, 2016 for FCC rules adopted in the 2016 Lifeline Modernization Order. In the petition, USTelecom seeks a waiver, in 27 states and territories, of the amended Lifeline eligibility rules in sections 54.400(j) and 54.409(a) of the FCC's rules, which were adopted in the 2016 Lifeline Modernization Order. The Michigan Public Service Commission (MPSC) offers the following comments regarding the waiver request of USTelecom. The comments are intended to provide more specific details of the implementation issues facing Michigan. The comments are due October 21, 2016.

Before commenting on USTelecom's waiver petition, the MPSC first notes that on August 23, 2016, the MPSC submitted a letter to the FCC highlighting its

support for one of the issues highlighted in USTelecom’s Petition for Reconsideration and Clarification that was filed June 23, 2016.¹ The issues that were highlighted pertained to the FCC’s reconsideration of the effective date of the new streamlined federal eligibility criteria and the obligation to offer Lifeline broadband internet access service (BIAS), and to defer it at least until the later of December 31, 2017 or 12 months after the federal Office of Management and Budget approval. As noted in the letter, the MPSC had similar concerns as those expressed by USTelecom regarding the effective date of the new federal eligibility criteria and its impact on state laws, rules and orders with programs that differ from the new federal eligibility criteria.

The petition for limited waiver that was filed by USTelecom on October 3, 2016 is specifically for the revised rules 54.400(j) and 54.409(a), as well as applicable sections of the Lifeline order, to permit Lifeline providers to continue enrolling consumers in the federal Lifeline program based on state-specific program and income eligibility criteria in 27 states (including Michigan).² The petition is seeking that the waiver should expire at the earlier of 18 months from its grant or

¹MPSC August 23, 2016 Letter:

[https://ecfsapi.fcc.gov/file/108241102121509/MPSC%20Ltr%20to%20FCC%20\(WC%2011-42%20WC%2009-197%20WC%2010-90\)%208-23-2016.pdf](https://ecfsapi.fcc.gov/file/108241102121509/MPSC%20Ltr%20to%20FCC%20(WC%2011-42%20WC%2009-197%20WC%2010-90)%208-23-2016.pdf)

²USTelecom Petition – Page 1: <https://ecfsapi.fcc.gov/file/10030446125016/Lifeline-Waiver-Petition-2016-10-03-FINAL.pdf>

60 days after the state notifies the FCC and all ETCs in the state that it has aligned its eligibility criteria with the federal criteria.³

While the rules and sections that USTelecom has mentioned in its petition pertain to the responsibility of the providers, and not necessarily the states, the MPSC continues to share implementation and timing concerns with USTelecom. Michigan has previously shared its concerns in its August 23, 2016 letter to the FCC. However, in providing these comments to the USTelecom waiver petition, the MPSC provides more detail about its concerns.

Michigan Lifeline Eligibility Database

- In order to be consistent with the revised qualifying assistance programs, the Michigan Lifeline Eligibility Database (MLED) would need to be changed from a technical standpoint. Currently, the MLED includes three qualifying programs⁴ that are now eliminated from the federal criteria and the federal criteria has added the Veterans and Survivors Pension Benefit programs which are not included in the MLED. Part of the technical changes include the backend processes of how information is entered, coded, and the recoding of information. This can be somewhat complicated, especially since the MLED is operated by another state department.

³ USTelecom Petition – Pages 1-2:
<https://ecfsapi.fcc.gov/file/10030446125016/Lifeline-Waiver-Petition-2016-10-03-FINAL.pdf>

⁴ The current qualifying programs in the MLED are: Low-Income Energy Assistance Program (LIHEAP), National School Lunch Programs (NSL) and Temporary Assistance for Needy Families (TANF).

- The MPSC is also concerned with the cost, as well as the amount of time needed for these technical changes to the MLED. The FCC has not provided any financial support to the states to make the appropriate changes to the state databases. The minimum estimated cost attributed to these changes in Michigan would be \$16,000, and may likely be higher. In addition, at a minimum it would take 6-8 months to revise and reprogram the database, but this timeframe could possibly extend longer due to other factors. For these reasons, the MPSC supports USTelecom's waiver petition.

Statutory Issues

- In order for Michigan's state Lifeline requirements to be consistent with the revised rules and directives in the 2016 Lifeline Modernization Order, the Michigan Telecommunications Act (MTA) would need to be amended, if state lawmakers so desire. For example, the MTA includes obligations for providers that do not match the revised Lifeline eligibility rules. The MTA includes qualifying federal assistance programs that have been eliminated by the revised Lifeline rules, and does not include the addition of the new qualifying program for veterans and their survivors. Also, the current MTA sets an annual income standard for a qualifying individual that differs from the FCC's 135% of the federal poverty level standard. The Lifeline discount in the MTA does not reflect the staggered reduction established by the FCC for federal reimbursement of the lifeline discount. As is the case at the federal level, state statutory changes take time to come to fruition.

- There are several factors that would impact the ability to amend the MTA in order to allow state law to parallel the revised Lifeline eligibility rules. With the current campaign season leading up to elections on November 8, as well as upcoming holidays in November and December, the number of days the Michigan Legislature is in session before the end of the year is limited, and it would be nearly impossible to enact statutory changes prior to December 2, 2016. Should legislative changes be necessary, it is more plausible that undertaking such an effort would commence when the Legislature convenes for a new two-year session in January 2017. This would allow stakeholders the ability to draft legislative language in the form of a bill, identify a sponsor to introduce that bill, educate key legislators on the need for new legislation, and allow for committee testimony and voting, as well as votes by both the House of Representatives and Senate before going to the Governor for signature. Supporters of such legislation would need an appropriate amount of time to voice their concerns with the appropriate legislative committees and committee members and provide their proposals on how best to amend the MTA to match the revised rules and sections of the federal lifeline program. Consumers that might be affected by a reduction in their lifeline benefits by a change in the state specific program would also have an opportunity to voice their concerns. There are multiple variables inherent in this process, which makes it difficult to accurately predict how long

enactment of a new law may take, but 6-12 months is not an unreasonable projection.

- If the MTA is amended, the MPSC could then request that the MLED be revised to accommodate those changes. That would only happen after the MTA is amended, potentially adding another 3-6 months to the process.

Thus, this is yet another reason the MPSC supports USTelecom's petition waiver.

MPSC Lifeline Order (U-17019)

- The MPSC issued a Lifeline order in 2012.⁵ Many of the rules that are contained in that order have now been revised by the FCC, including the rules mentioned in USTelecom's petition. Now that the FCC has announced the effective date of its revised rules, in order to be consistent with those changes, the MPSC would need to issue a new order. However, issuing a new order before the December 2, 2016 effective date is complicated. Some parts of the current order (U-17019) refer to the Lifeline sections in the current MTA. As already noted, there are parts of the MTA that need to be amended in order to match the revised FCC rules. The MPSC may need to issue two or three orders regarding Lifeline. An initial order for those rules that will take effect on December 2, 2016, and a second order (if a waiver is granted) for those rules that have been waived, as well as a third order when the MTA

⁵ MPSC Order U-17019:

<http://efile.mpsc.state.mi.us/efile/viewcase.php?casenum=17019&submit.x=0&submit.y=0>

has been amended to incorporate those changes. As discussed previously, there are statutory concerns involving the rules and sections that USTelecom has petitioned for a waiver. As outlined previously, the legislative process and database changes could take 12-18 months. If a waiver is granted for these particular rules, the MPSC would then be able to issue an order recognizing the waiver and maintaining the status quo, which would allow time for the state statutory changes needed to align Michigan's Lifeline requirements with the FCC's amended Lifeline eligibility rules. This is yet another reason why the MPSC shares USTelecom's concerns as mentioned in their petition for a waiver.

Conclusion

The MPSC appreciates the opportunity to provide additional comments on such an important issue. While the MPSC understands the desire of the FCC to implement the Lifeline program and rules on December 2, 2016, it is also imperative that the FCC understand the concerns and issues that impact state commissions, as well as providers. The MPSC shares concerns that USTelecom raised in their limited waiver petition. It is important that the Lifeline program is implemented in an efficient, effective, and seamless manner. It is important that current Lifeline customers and potential Lifeline customers are not harmed or negatively impacted. The MPSC recommends that the FCC approve the petition request by USTelecom. Approving the limited waiver request provides a better opportunity for parties to address the differences between state and federal Lifeline

programs, obtain answers to the numerous questions that still remain, and also provide additional time for all parties to work together. As noted in the MPSC's comments, there are many factors (cost, technical, legislative/statutory, state commission orders, calendar days, etc.) that support granting a limited waiver. The MPSC asks the FCC to review and consider the many concerns and factors that are impacting Michigan and grant the providers that operate in Michigan a 12-18 month waiver request.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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